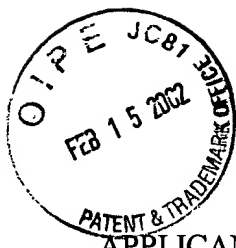


Kreisler 1092-KGB  
001394us/JH/be



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : GERD HOBOM ET AL.  
SERIAL NO. : 09/909,238  
FILED : July 19, 2001  
FOR : RECOMBINANT INFLUENZA VIRUSES WITH BICISTRONIC  
vRNAs CODING FOR TWO GENES IN TANDEM  
ARRANGEMENT  
ART UNIT : 1614  
EXAMINER : TO BE ASSIGNED

---

February 4, 2002

Hon. Commissioner of Patents  
Washington, D.C. 20231

**RESPONSE TO NOTICE TO FILE MISSING PARTS  
& COMMUNICATION REGARDING  
THE SEQUENCE LISTING**

SIR:

In further response to the Notice to File Missing Parts of Nonprovisional Application dated October 3, 2001, a copy of which is attached, please amend the above-identified application as follows:

IN THE SEQUENCE LISTING:

Replace the initial paper Sequence Listing by the attached substitute paper Sequence Listing.

REMARKS

The above-identified notice required that Applicants submit:

- 1) A substitute paper copy of the Sequence Listing;
- 2) A substitute computer readable form (CRF) copy of the paper Sequence Listing; and
- 3) A statement that the content of the paper Sequence Listing and the computer readable copies are the same and include no new matter.

In response, there is attached a substitute paper copy of the Sequence Listing, which, pursuant to 37 CFR § 1.823 (a) (1), is numbered independently of the numbering of the remainder of the application. The undersigned hereby certifies that the substitute paper copy of the Sequence Listing does not introduce new matter.

There is also attached a substitute computer readable form copy of the substitute paper Sequence Listing. The undersigned hereby certifies that the content of the substitute paper Sequence Listing and the substitute computer readable form copy is the same and includes no new matter.

Please type a plus sign (+) inside this box ⇒



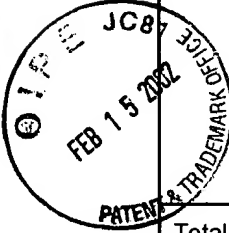
Approved for use through 9/30/00. OMB 0651-0031

Patent and Trademark Office: U.S. Department of Commerce

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# TRANSMITTAL FORM

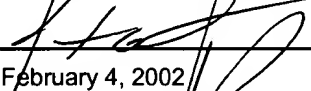
(To be used for all correspondence after initial filing)

|                                                                                  |                      |                        |                   |
|----------------------------------------------------------------------------------|----------------------|------------------------|-------------------|
|  | Application Number   | 09/909,238             |                   |
|                                                                                  | Filing Date          | July 19, 2001          |                   |
|                                                                                  | First Named Inventor | Gerd HOBOM et al       |                   |
|                                                                                  | Group Art Unit       | 1614                   |                   |
|                                                                                  | Examiner Name        | To Be Assigned         |                   |
| Total Number of Pages in This Submission                                         |                      | Attorney Docket Number | Kreisler 1092-KGB |

## ENCLOSURES (check all that apply)

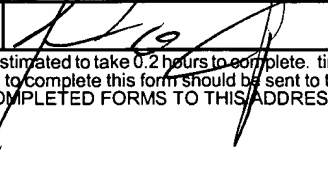
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> <b>Fee Transmittal Form</b><br><input type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment / Response<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input checked="" type="checkbox"/> <b>Extension of Time Request</b><br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input checked="" type="checkbox"/> <b>Certified Copy of Priority Document(s)</b><br><input checked="" type="checkbox"/> <b>Response to Missing Parts/ Incomplete Application</b><br><input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Assignment Papers (for an Application)<br><input checked="" type="checkbox"/> <b>Drawing(s) 8 Sheets</b><br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition Routing Slip(PTO/SB/69) and Accompanying Petition<br><input type="checkbox"/> To convert a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Small Entity Statement<br><input type="checkbox"/> Request for Refund | <input type="checkbox"/> After Allowance Communication to Group<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> <b>Additional Enclosure(s) - (please identify below):</b><br><b>- Diskette containing Sequence Listing</b> |
| Remarks:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

|                         |                                                                                                     |
|-------------------------|-----------------------------------------------------------------------------------------------------|
| Firm or Individual name | Kurt G. Briscoe, Esq.<br>NORRIS McLAUGHLIN & MARCUS, P.A.                                           |
| Signature               |  Reg. No. 33,141 |
| Date                    | February 4, 2002                                                                                    |

## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to : Hon. Commissioner of Patents, Washington, D.C. 20231 on this date: February 4, 2002

|                       |                                                                                                           |
|-----------------------|-----------------------------------------------------------------------------------------------------------|
| Typed or printed name | Kurt G. Briscoe                                                                                           |
| Signature             |  Date February 4, 2002 |

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Hon. Commissioner of Patents, Washington, DC 20231.

# FREE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

\$400.00

## Complete if Known

|                      |                               |
|----------------------|-------------------------------|
| Application Number   | 09/909,238                    |
| Filing Date          | July 19, 2001                 |
| First Named Inventor | GERD HOBOM et al              |
| Examiner Name        | To Be Assigned                |
| Group Art Unit       | To Be Assigned                |
| Attorney Docket No.  | 100725-10 / Kreisler 1092-KGB |

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number

14-1263

Deposit Account Name

Norris, McLaughlin &amp; Marcus

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Credit any overpayments

☐ Charge any additional fee(s) during the pendency of this application

☐ Charge fee(s) indicated below, except for the filing fee to the above identified deposit account.

## FEE CALCULATION

## 1. BASIC FILING FEE

| Large Entity |          | Small Entity |          | Fee Description        | Fee Paid |
|--------------|----------|--------------|----------|------------------------|----------|
| Fee Code     | Fee (\$) | Fee Code     | Fee (\$) |                        |          |
| 101          | 740      | 201          | 370      | Utility filing fee     |          |
| 106          | 330      | 206          | 165      | Design filing fee      |          |
| 107          | 510      | 207          | 255      | Plant filing fee       |          |
| 108          | 740      | 208          | 370      | Reissue filing fee     |          |
| 114          | 160      | 214          | 80       | Provisional filing fee |          |
| SUBTOTAL (1) |          |              |          |                        | \$0.00   |

## 2. EXTRA CLAIM FEES FOR UTILITY AND

|                    | Extra Claims         |                               |   | Fee from below                     | Fee Paid                            |
|--------------------|----------------------|-------------------------------|---|------------------------------------|-------------------------------------|
| Total Claims       | <input type="text"/> | - 20** = <input type="text"/> | X | <input type="text" value="18.00"/> | = <input type="text" value="0.00"/> |
| Independent Claims | <input type="text"/> | - 3** = <input type="text"/>  | X | <input type="text" value="80.00"/> | = <input type="text" value="0.00"/> |
| Multiple Dependent |                      |                               |   | <input type="text"/>               | = <input type="text"/>              |

| Large Entity |          | Small Entity |          | Fee Description                                            |
|--------------|----------|--------------|----------|------------------------------------------------------------|
| Fee Code     | Fee (\$) | Fee Code     | Fee (\$) |                                                            |
| 103          | 18       | 203          | 9        | Claims in excess of 20                                     |
| 102          | 84       | 202          | 42       | Independent claims in excess of 3                          |
| 104          | 280      | 204          | 140      | Multiple dependent claim, if not paid                      |
| 109          | 84       | 209          | 42       | ** Reissue independent claims over original patent         |
| 110          | 18       | 210          | 9        | ** Reissue claims in excess of 20 and over original patent |

SUBTOTAL (2)

\$0.00

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

| Large Entity |          | Small Entity |          | Fee Description                                                            | Fee Paid |
|--------------|----------|--------------|----------|----------------------------------------------------------------------------|----------|
| Fee Code     | Fee (\$) | Fee Code     | Fee (\$) |                                                                            |          |
| 105          | 130      | 205          | 65       | Surcharge - late filing fee or oath                                        |          |
| 127          | 50       | 227          | 25       | Surcharge - late provisional filing fee or cover sheet                     |          |
| 139          | 130      | 139          | 130      | Non - English specification                                                |          |
| 147          | 2,520    | 147          | 2,520    | For filing a request for <i>ex parte</i> reexamination                     |          |
| 112          | 920*     | 112          | 920*     | Requesting publication of SIR prior to Examiner action                     |          |
| 113          | 1,840*   | 113          | 1,840*   | Requesting publication of SIR after Examiner action                        |          |
| 115          | 110      | 215          | 55       | Extension for reply within first month                                     |          |
| 116          | 400      | 216          | 200      | Extension for reply within second month                                    | 400.00   |
| 117          | 920      | 217          | 460      | Extension for reply within third month                                     |          |
| 118          | 1,440    | 218          | 720      | Extension for reply within fourth month                                    |          |
| 128          | 1,960    | 228          | 980      | Extension for reply within fifth month                                     |          |
| 119          | 320      | 219          | 160      | Notice of Appeal                                                           |          |
| 120          | 320      | 220          | 160      | Filing a brief in support of an appeal                                     |          |
| 121          | 280      | 221          | 140      | Request for oral hearing                                                   |          |
| 138          | 1,510    | 138          | 1,510    | Petition to institute a public use proceeding                              |          |
| 140          | 110      | 240          | 55       | Petition to revive - unavoidable                                           |          |
| 141          | 1,280    | 241          | 640      | Petition to revive - unintentional                                         |          |
| 142          | 1,280    | 242          | 640      | Utility issue fee (or reissue)                                             |          |
| 143          | 460      | 243          | 230      | Design issue fee                                                           |          |
| 144          | 620      | 244          | 310      | Plant issue fee                                                            |          |
| 122          | 130      | 122          | 130      | Petitions to the Commissioner                                              |          |
| 123          | 50       | 123          | 50       | Processing fee under 37 CFR § 1.17(q)                                      |          |
| 126          | 180      | 126          | 180      | Submission of Information Disclosure Statement                             |          |
| 581          | 40       | 581          | 40       | Recording each patent assignment per property (times number of properties) |          |
| 146          | 740      | 246          | 370      | Filing a submission after final rejection (37 CFR § 1.129(a))              |          |
| 149          | 740      | 249          | 370      | For each additional invention to be examined (37 CFR § 1.129(b))           |          |
| 178          | 740      | 279          | 370      | Request for Continued Examination (RCE)                                    |          |
| 169          | 900      | 169          | 900      | Request for expedited examination of a design application                  |          |

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

\$400.00

## SUBMITTED BY

|                   |                 |                                   |                  |           |                |
|-------------------|-----------------|-----------------------------------|------------------|-----------|----------------|
| Name (Print/Type) | Kurt G. Briscoe | Registration No. (Attorney/Agent) | 33,141           | Telephone | (212) 808-0700 |
| Signature         |                 | Date                              | February 4, 2002 |           |                |

## Complete (if applicable)

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC.

FEB 15 2002

TRANSMITTAL OF FORMAL DRAWINGS

Docket No.  
Kreiser 1092-KGB

In Re: Application Of: GERD HOBOM et al

Serial No.

09/909,238

Filing Date

July 19, 2001

Batch No.

To Be Assigned

Examiner

To Be Assigned

Art Unit

1614

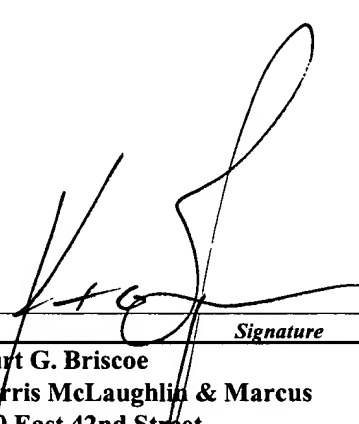
Invention: RECOMBINANT INFLUENZA VIRUSES WITH BICISTRONIC vRNAs CODING FOR TWO GENES  
INTANDEM ARRANGEMENT

Address to:  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Transmitted herewith are:

8 sheets of formal drawing(s) for this application.

☒ Each sheet of drawing indicates the identifying indicia suggested in 37 CFR Section 1.84(c).

  
Signature  
Kurt G. Briscoe  
Norris McLaughlin & Marcus  
220 East 42nd Street  
30th Floor  
New York, NY 10017  
Tel.: (212) 808-0700  
Fax: (212) 808-0844

Reg. No.  
33,141

Dated: 02-04-02

I certify that this document and attached formal drawings  
are being deposited on February 4, 2002 with the  
U.S. Postal Service as first class mail under 37 C.F.R. 1.8  
and addressed to the Assistant Commissioner for Patents,  
Washington, D.C. 20231.

Signature of Person Mailing Correspondence

Kurt G. Briscoe

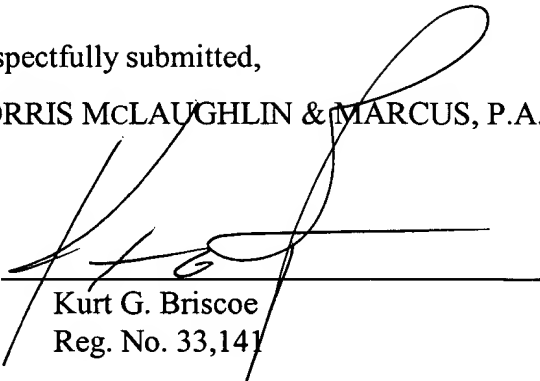
Typed or Printed Name of Person Mailing Correspondence

Early and favorable action is earnestly solicited.

Respectfully submitted,

NORRIS MCLAUGHLIN & MARCUS, P.A.

By

  
Kurt G. Briscoe  
Reg. No. 33,141

220 East 42<sup>nd</sup> Street - 30<sup>th</sup> Floor  
New York, New York 10017  
Phone: (212) 808-0700  
Fax: (212) 808-0700

CERTIFICATE OF MAILING

I hereby certify that the foregoing Response to Notice to File Missing Parts and accompanying Copy of the Notice, Substitute Paper Sequence Listing (15 pages) and Computer Diskette are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Hon. Commissioner of Patents, Washington, D.C. 20231, on the date indicated below:

Date: February 4, 2002

By

  
Kurt G. Briscoe



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|---------------------|-----------------------|------------------------|
| 09/909,238         | 07/19/2001          | Gerd Hobom            | Kreisler 1092-KGB      |

CONFIRMATION NO. 8656

## FORMALITIES LETTER



\*0C000000006834890\*

Date Mailed: 10/03/2001

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

## Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 130.**

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);
- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at [patin21help@uspto.gov](mailto:patin21help@uspto.gov) or [patin3help@uspto.gov](mailto:patin3help@uspto.gov)

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*A copy of this notice MUST be returned with the reply.*

BL

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Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY